

Timothy M. Ryan, Bar No. 178059
 Kimberly L. Roig, Bar No. 249004
 THE RYAN FIRM
 A Professional Corporation
 1100 N. Tustin Avenue, Suite 200
 Anaheim, California 92807
 Telephone (714) 666-1362; Fax (714) 666-1443

Attorneys for Defendant DGG FINANCIAL CORPORATION dba DREXEL LENDING GROUP (erroneously sued as Drexel Lending Group, a California corporation)

**IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

MARIA R. METCALF,

Plaintiff,

vs.

DREXEL LENDING GROUP, a
 California corporation; OLD
 REPUBLIC TITLE COMPANY, a
 California corporation; AURORA
 LOAN SERVICES, LLC; a California
 limited liability company;
 MORTGAGE ELECTRONIC
 REGISTRATION SYSTEMS, INC., a
 Delaware corporation; and ROBERT
 E. WEISS INCORPORATED, a
 California corporation,

Defendants.

CASE NO.: 3:08-cv-00731-W-POR

**DGG FINANCIAL CORPORATION
 DBA DREXEL LENDING GROUP'S
 NOTICE OF MOTION AND MOTION
 TO DISMISS**

[F.R.Civ.P., rule 12(b)(6)]

Date: June 23, 2008
 Time: 10:30 a.m.
 Courtroom: 7
 Judge: Hon. Thomas J. Whelan

**NO ORAL ARGUMENT PURSUANT
 TO LOCAL RULE 7.1(d)(1)**

TO EACH PARTY AND THEIR COUNSEL OF RECORD:


PLEASE TAKE NOTICE that on June 23, 2008 at 10:30 a.m., in Courtroom 7 of this Court located at 880 Front Street, Room 4290, San Diego, California, Defendant DGG Financial Corporation dba Drexel Lending Group ("Drexel") will move this Court for an order dismissing this action and for a judgment of dismissal pursuant to *Federal*

1 *Rule of Civil Procedure*, rule 12(b)(6) on the basis that the complaint fails to state a claim
 2 upon which relief can be granted. This motion is made on the ground that Plaintiff Maria
 3 Metcalf ("Metcalf") is suing to rescind a loan despite the fact that (1) Metcalf's three-day
 4 right to rescind expired in February 2007, (2) any purported extended right to rescind has
 5 been extinguished due to sale of the property via foreclosure on February 28, 2008, (3)
 6 Drexel has no interest in the note and deed of trust and cannot rescind the transaction as a
 7 matter of law, and (4) Metcalf's right to claim a Truth in Lending Act violation expired
 8 one year after consummation of the subject loan, in February 2008.

9 The motion will be based upon this notice, the attached points and authorities,
 10 request for judicial notice, the files and records in this action, and any further evidence
 11 and argument that the Court may receive at or before the hearing.

12 DATED: May 15, 2008

THE RYAN FIRM
 A Professional Corporation

By: 
 TIMOTHY M. RYAN
 KIMBERLY L. ROIG
 Attorneys for Defendant DGG
 FINANCIAL CORPORATION dba
 DREXEL LENDING GROUP

20 r:\9187 drexel lending group\9187-0005 maria r. metcalf v. dgg financial\law & motion\motion to dismiss\notice of motion and
 21 motion.doc